

FY 2014 Follow-Up Federal Annual Monitoring and Evaluation (FAME) Report

**KENTUCKY LABOR CABINET
DEPARTMENT OF WORKPLACE STANDARDS
OCCUPATIONAL SAFETY AND HEALTH PROGRAM**



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I. Executive Summary

A. State Plan Activities, Themes, and Progress

The Fiscal Year (FY) 2014 FAME Report is a follow-up FAME Report. This report is focused on the Kentucky Labor Cabinet, Department of Workplace Standards, Occupational Safety and Health (KYOSH) program's progress in making corrections in response to the FY 2013 FAME Report findings and observations identified by OSHA. In addition, this report is also based on the results of quarterly onsite monitoring visits, the State Office Annual Report (SOAR) for FY 2014, and the State Activity Mandated Measures (SAMM) Report for FY 2014. A review of the SAMM data for FY 2014 indicated that KYOSH generally met or exceeded federal activity results.

A total of eight findings and recommendations are documented in this evaluation report. The State Plan has taken appropriate corrective action to address seven of these items; however, five items are awaiting verification. The remaining two items are identified as open. In response to most of these items, the State Plan implemented new policies or changed existing policies. The Region will continue to work with the State Plan to ensure that all items are effectively resolved. Each of the findings and recommendations, as well as the State Plan's response is addressed below in detail.

KYOSH conducted 998 workplace inspections during FY 2014, falling short of their goal of 1,090; however, it is an increase of 99 inspections compared to FY 2013. KYOSH identified 1,213 violations, resulting in a penalty total of \$3,544,625. This is discussed in further detail in Section II of the report.

KYOSH investigated a total of 23 fatalities in FY 2014. This total is 8.7% higher than the number of fatalities in FY 2013 (21), but still one fatality less than number investigated in FY 2012 (24). The breakdown of fatality figures for FY 2014 show that deaths in general industry decreased from 11 in FY 2013 to 10 in FY 2014. The number of construction deaths remained the same at 10 from FY 2013 to FY 2014. Construction had the highest number of work-related death, followed by 8 manufacturing fatalities (included within general industry). Public sector deaths increased from zero in FY 2013 to one in FY 2014. There were two reported fatalities in agriculture and forestry, which was an increase from zero in FY 2013. The leading cause of work-related fatalities in FY 2014 was fall events with a total of nine. Seven workers were killed in struck-by events; three workers were crushed or caught in between objects; three workers were electrocuted; and one worker died from inhalation/suffocation when he entered a tank and was overcome by the residual fumes.

	FY 2012	FY 2013	FY 2014
Total Fatalities	24	21	23
Construction	8	10	10
General Industry	14	11	10
Agriculture	0	0	2
Public Sector	2	0	1

KYOSH has implemented safety and health general industry targeting procedures; however, it has not adopted the federal Site-Specific Targeting (SST) procedures. KYOSH established a state SST program known as the Targeted Outreach Program. The Kentucky Safety Tops Our Priority (STOP) Program also utilizes data to target high-hazard industries or North American Industrial Classification System (NAICS) codes and specific employers or sites. The State Plan’s programmed general industry safety targeting procedure focuses upon employers in Kentucky’s top 10 high-hazard NAICS and specific high-hazard industries. The Division of Education and Training targets employers at specific facilities. Letters were sent to 190 employers, encouraging them to request consultation services. A total of 101 employers responded to the outreach letters with survey requests. The Division of Education and Training is working with these employers to improve their safety and health programs and eliminate hazards in their workplaces. Employers who did not respond or chose not to use the voluntary consultation services were referred to the Division of Occupational Safety and Health (OSH) Compliance for inspection.

KYOSH has a variety of emphasis programs, some of which are associated with their strategic goals, and some of which are National Emphasis Programs (NEPs). Kentucky maintained the following emphasis programs: Trenching and Excavations; Lead; Hexavalent Chromium; and Isocyanates. KYOSH is also working with several organizations to address combustible dust and health hazards associated with asbestos and poisonings from chemical exposures.

KYOSH continues its outreach to employers and workers with outreach letters, industry guides and posters, safety and health surveys, as well as focused training. The State Plan’s latest injury and illness rate for private industry is 4.0, which is above the national rate of 3.3 per 100 full-time workers in 2013. The U.S. Bureau of Labor Statistics (BLS) compiles the injury and illness rate data.

Total Recordable Cases (TRC) and Days Away Restricted and Transferred (DART) Rate Comparison*

CY 2013**	Kentucky		National Average		Comparison
<i>TRC Rate</i>	4.0	4.1*	3.3	3.5*	<i>15% Higher Than National Average*</i>
<i>DART Rate</i>	2.1	2.1*	1.7	1.8*	<i>14% Higher Than National Average*</i>

**All industries, including state and local government*

***CY = Calendar Year*

In FY 2014, the Division of Education and Training conducted 128 training courses and reached approximately 3,729 workers through training requests from employers. This included 89 in-person training courses that reached approximately 2,497 attendees. The Division of Education and Training developed a cost-free online e-learning safety and health program management training module during FY 2013. The module was published to the Kentucky Labor Cabinet’s e-learning website in January 2014. The State Plan also developed electronic and traditional training addressing OSHA’s April 11, 2014, final rule, which created and revised the General Industry Standard and Construction Industry Standard related to electric power generation, transmission, and distribution, as well as electrical protective equipment. The Kentucky Labor

Cabinet maintains updated and accurate information on the KYOSH webpage, as well as cost-free publications for employers and workers. The Division of Education and Training distributes a compact disc that contains all of the KYOSH regulations, federal occupational safety and health standards, Kentucky safety and health manuals, posters, conference information, and other resource links. The compact disc offers employers a mechanism to register and receive notices regarding new or amended regulations. The Division of Education and Training added the following four items to its list of cost-free interactive training products in the state's webpage library: OSHA's Safety & Health Program Management Guidelines; Introducción a la Protección Contra Caídas en Español; Notice of Recordkeeping Requirements; and Overview of the Survey of Occupational Injuries and Illnesses. In addition, eight new webinars were conducted, recorded, and published to the website for instant viewing. They include the following: Office Ergonomics - Making It Work For You; Electrical Safety Training for the Unqualified Worker; Hearing Conservation; Eyewashes, Showers and First-Aid; Accident Investigation Utilizing Root Cause Analysis; Bloodborne Pathogens in General Industry and Construction; What is a Fall Rescue Plan? The Suspension Is Killing Us!; and Occupational Heat Exposure.

B. State Plan Introduction

KYOSH was established by the Kentucky General Assembly in 1972. The Kentucky State Plan was approved by OSHA in 1973. The KYOSH program received final 18(e) approval on June 13, 1985. Kentucky was the first State Plan approved under the revised federal benchmarks. The responsibility for enforcing occupational safety and health law in the Commonwealth of Kentucky is vested in the Kentucky Labor Cabinet and assigned to the Department of Workplace Standards, which is headed by a commissioner, who is appointed by the secretary with the approval of the governor. The Kentucky program covers all private and public sector workers within the state with the exception of railroad workers, federal workers, maritime workers (longshoring, ship building/ship breaking, and marine terminals operations), private contractors working at government-owned/contractor-operated facilities, Tennessee Valley Authority (TVA) workers and contractors operating on TVA sites, as well as U.S. Postal Service workers. The state and local government workers are covered under the State Plan and are treated the same as private sector workers.

The Kentucky General Assembly enacted legislation charging KYOSH with the mission to prevent any detriment to the safety and health of all public and private sector workers arising out of exposure to harmful conditions or practices at their places of work. KYOSH's program consists of the OSH federal-state coordinator, standards specialists, and support staff, all of whom are attached to the Commissioner's Office; the Division of OSH Compliance; and the Division of Education and Training. The Division of OSH Compliance is responsible for the enforcement of KYOSH's standards. The Division of Education and Training assists employers and workers by promoting voluntary compliance with KYOSH standards. The Division of Education and Training is also responsible for overseeing the Partnership Programs, as well as conducting the Annual Survey of Occupational Injuries and Illnesses, the Census of Fatal Occupational Injuries, and the OSHA Data Collection. The Office of the Federal-State Coordinator oversees the Office of Standards Interpretation and Development. Safety and health standards specialists from this office serve in the following roles: support staff to the KYOSH program and the OSH Standards Board; promulgate KYOSH regulations; respond to OSHA

inquiries; and provide interpretations of KYOSH standards and regulations. This office is also responsible for maintaining the KYOSH State Plan, as well as handling day-to-day communications with other government agencies, both at the state and federal level, including the U.S. Department of Labor, OSHA, BLS, and other state occupational safety and health programs.

KYOSH’s primary objective is to improve occupational safety and health in workplaces throughout the state. The total population of private and public sector workers covered by the Kentucky State Plan is approximately 1,911,760 and 113,076, respectively. This includes approximately 4,152 public sector employers. Program services are administered through a singular office in Frankfort.

Worker protection against discrimination related to occupational safety and health (KRS 338.121) is administered by KYOSH through the Frankfort Office. There are two investigators who report to the director of OSH compliance; one of the positions is vacant. Discrimination cases found to be meritorious are prosecuted by the Legal Department in the Kentucky Labor Cabinet. Kentucky initiated 36 discrimination investigations in FY 2014. One of these cases involved a state or local government employer.

The Division of Education and Training offers onsite consultation to employers in the state through the 23(g) grant. They also provide free training to employers and workers in the Commonwealth of Kentucky. In addition to consultative surveys, the division offers training and a number of voluntary and cooperative programs, such as the Voluntary Protection Program (VPP), Construction Partnership Program, Safety and Health Achievement Recognition Program (SHARP), OSHA Strategic Partnership, and Safety Partnership Program, focused on reducing injury and illness.

The table below shows KYOSH’s funding levels from FY 2010 through FY 2014.

FY 2010-2014 Funding History					
Fiscal Year	Federal Award (\$)	State Plan Match (\$)	100% State Funds (\$)	Total Funding (\$)	% of State Plan Contribution
2014	3,378,100	3,378,100	3,110,200	9,866,400	68
2013	3,505,100	3,505,100	2,881,900	9,892,100	65
2012	3,505,100	3,505,100	2,504,000	9,514,200	63
2011	3,505,100	3,505,100	2,463,300	9,473,500	63
2010	3,300,600	3,308,600	2,819,700	9,436,900	65

NOTE: Kentucky accepted and matched \$119,516 de-obligated funds in 2013 and \$40,000 in 2010.

The table below shows the number of KYOSH’s full-time and part-time staff as of the end of FY 2014.

FY 2014 Staffing							
23(g) Grant Positions	Allocated FTE* Funded 50/50	Allocated FTE 100% State Plan Funded	Allocated FTE 100% Federal Plan Funded	Total	50/50 Funded FTE on Board as of 03/31/14	100% State Plan Funded FTE on Board as of 03/31/14	100% Federal Plan Funded FTE on Board as of 03/31/14
Managers/ Supervisors (Administrative)	7.00	0.00	0.00	7.00	7.5	0.00	0.00
First-Line Supervisors (Program)	7.00	0.00	0.00	7.00	7.00	0.00	0.00
Safety Compliance Officers	24.00	0.00	0.00	24.00	24.00	0.00	0.00
Health Compliance Officers	15.00	0.00	0.00	15.00	15.00	0.00	0.00
Private Sector Safety Consultants	13.00	0.00	0.00	13.00	13.00	0.00	0.00
Private Sector Health Consultants	13.00	0.00	0.00	13.00	13.00	0.00	0.00
Public Sector Safety Consultants	1.00**	0.00	0.00	1.00**	1.00**	0.00	0.00
Public Sector Health Consultants	1.00**	0.00	0.00	1.00**	1.00**	0.00	0.00
Compliance Assistance Specialist	3.00	0.00	0.00	3.00	3.00	0.00	0.00
Clerical	14.00	7.00	0.00	21.00	18.00	7.00	0.00
Other (all positions not counted elsewhere)	6.80	0.00	0.00	6.80	7.20	0.00	0.00
Total 23(g) FTEs	104.8	7.00	0.00	111.8	109.7	7.00	0.00

*FTE=Full-Time Equivalent

**The KYOSH program utilizes the same resources to provide services to both the private sector and state and local government. Data reported is based on averages and while accurate to the extent feasible, it should not be considered precise.

C. Data and Methodology

This report was prepared under the direction of Kurt A. Petermeyer, Regional Administrator, Region IV, Atlanta, Georgia, and covers the period from October 1, 2013 through September 30, 2014. The Kentucky State Plan is administered by KYOSH.

This is OSHA's report on the operation and performance of the Kentucky State Plan. It was compiled using information gained from Kentucky's SOAR for FY 2014, interviews with the Kentucky staff, Integrated Management Information System (IMIS) reports, as well as the SAMM Report and State Indicator Report for FY 2014.

OSHA has established a two-year cycle for the FAME process. This is the follow-up year, and as such, OSHA did not perform the level of case file review associated with a comprehensive FAME. This strategy allows the State Plan to focus on correcting deficiencies identified in the most recent comprehensive FAME.

D. Findings and Observations

One new finding and one new observation were identified in FY 2014 and are reflected in Appendix A. The one new FY 2014 finding is about the State Plan's regulation for residential construction fall protection differing significantly from the federal regulation. The summary of the State Plan's status on addressing the nine FY 2013 findings and recommendations is found in Section III and Appendix C. The FY 2013 findings and recommendations that were carried over covered the following issues: the State Plan should implement processes and procedures to identify open cases that can be closed; the State Plan should provide a detailed response to complainants following complaint inspections; the State Plan should ensure that all communications with next-of-kin (NOK) are completed during and following a fatality investigation; the State Plan should ensure that a more representative sample of programmed planned health inspections is conducted; the State Plan should reduce the lapse time for safety and health inspections to be at or below the national average; the State Plan should ensure compliance officer training is in line with the Training and Education Directive (TED) 01-00-018; and the State Plan should ensure that an internal self-evaluation program possessing integrity and independence is developed and implemented and that all areas of the program are evaluated. An assessment of the State Plan corrective actions is addressed in detail below in Section III. Two of the findings from FY 2013 are considered open for this period. Five of the remaining findings are awaiting verification, and one new finding was documented for this period.

Appendix B reflects the addition of one new observation for FY 2014 and the status of the nine observations identified during the FY 2013 onsite review. An observation is an item that has not proven to impact the effectiveness of the State Plan but should continue to be monitored by the Region. All of the FY 2013 observations were continued during FY 2014.

II. Assessment of State Plan Performance

A. Major New Issues

The FY 2014 SOAR documented that the State Plan did not meet its activity goal for compliance inspections in FY 2014. Analysis determined that even though the goal was not met, KYOSH conducted 998 inspections in 2014 compared to 899 inspections in FY 2013, which was an increase of 99 inspections. There were a number of underlying reasons that the State Plan did not meet the inspection goal. These factors include:

- The State Plan lost experienced and productive compliance safety and health officers (CSHOs) as a result of KYOSH salaries that were not competitive with other employers.
- Less experienced CSHOs and new hires require more time to complete inspections, especially more complicated investigations.

The Division of OSH Compliance lost eight CSHOs in the past six months; nearly all departed for positions that provided a significant salary increase. Over the past five years, 15 compliance staff departed for other employment, and an additional three retired. Thirteen of those 18 staff members departed in the last two years.

The State Plan has incentives to try to address the retention issue. First, KYOSH encourages and aids in professional certification. The Division of OSH Compliance continues to encourage and promote professional certification by maintaining two safety position descriptions, increasing salaries for the level of certification, paying for certification preparatory courses, and paying for the certification examination after successful completion. In 2014, two workers were promoted or reclassified as a result of successfully attaining professional certification. Secondly, KYOSH encourages and aids workers in the attainment of advanced degrees. In FY 2014, the Division of OSH Compliance funded graduate degrees at Eastern Kentucky University for two safety compliance officers. Both graduated with Master of Science in Safety, Security, and Emergency Management degrees. In addition, the Division of Education and Training has several workers working toward advanced degrees. Since 2009, the Division of OSH Compliance has supported nine compliance officers in attaining Master of Science degrees.

Another major new issue involved efforts in the legislature to defund or significantly reduce funding for the Kentucky State Plan. House Bill 277 was introduced this past legislative session. It proposed to reduce the special fund assessment rate from 9% to no less than 6.28% (thus affecting the funding of many programs in the Kentucky Labor Cabinet, including the KYOSH program). The bill also proposed to cap funding for Labor Cabinet programs (including the KYOSH program) at the amount budgeted for the 2015-2016 fiscal biennium. After July 1, 2016, the bill proposed to reduce funding to the Labor Cabinet programs by 5% each fiscal year.

Another major new issue involved Kentucky's regulation addressing residential fall protection in construction. Kentucky's state specific regulation 803 KAR 2:412 specifically addresses residential construction fall protection. The regulation, which became effective on January 6, 2006, defines residential construction in Kentucky as construction work on a stand-alone single family dwelling, duplex, three-plex, or four-plex structure. Workers who are engaged in residential construction activities working 10 feet or more above a lower level; who are exposed to unprotected sides and edges, leading edges, hoist areas, form work, and reinforcing steel; or who are engaged in roofing work on roof slopes three in 12 or less must be protected by guardrail systems, safety net systems, personal fall arrest systems, or a specific alternative measure established in the regulation.

The Compliance Guidance for Residential Construction (STD 03-11-002) cancelled OSHA's interim enforcement policy (STD 03-00-001) on fall protection for certain residential construction activities and requires employers engaged in residential construction to comply with

29 CFR 1926.501(b)(13). This new guidance informed State Plans that, in accordance with the OSH Act, they must each have a compliance directive on fall protection in residential construction that, in combination with applicable State Plan standards, results in enforcement program that is at least as effective as OSHA's program.

The following areas where the Kentucky State Plan's standards and enforcement policies for fall protection differ significantly from OSHA's policies and standards, specifically in the context of residential construction, were identified:

- Kentucky establishes a 10-foot trigger height for fall protection in certain limited specific activities in residential construction. OSHA has a general 6-foot trigger height for fall protection in construction, including in residential construction. See 29 CFR 1926.501(b).
- Kentucky allows the use of slide guards and other means (e.g., temporary platform, warning line, safety monitor system) as acceptable fall protection methods while performing residential construction work. OSHA does not consider these alternative means to be conventional fall protection. See 29 CFR 1926.501(b)(13).
- Kentucky provides a Sample Fall Protection Plan with provisions that differ from the OSHA Sample Fall Protection Plan. See Appendix E to Subpart M of Part 1926 - Sample Fall Protection Plan.
- Kentucky's definition of residential construction differs from OSHA's definition. See OSHA STD 03-11-002, *Compliance Guidance for Residential Construction*.

On December 10, 2014, the Regional Administrator and OSHA Regional staff members met with representatives of the KYOSH program and discussed these key issues. A determination was made that KYOSH would take OSHA's concerns to the regulated community in an attempt to resolve them through possible modifications to 803 KAR 2:412 – Kentucky's residential construction fall protection regulation. This action would bring the Kentucky Administrative Regulations into line with the federal requirement.

B. Assessment of State Plan Progress in Achieving Annual Performance Goals

This section of the report represents the performance of KYOSH during the fourth year of its Five-Year Strategic Plan, which covers the period from FY 2011 through FY 2015. This report, in conjunction with KYOSH's SOAR provides detailed information on KYOSH's progress toward the annual performance goals, as well as KYOSH's performance in meeting its mandated activities. Overall, the State Plan's performance in this area was effective. Therefore, this section of the report does not contain any formal recommendations for improvement.

Goal 1.1: Reduce the rate for repeat, serious, and willful violations in residential construction.

This goal is focused on reducing the rates for repeat, serious, and willful violations in residential construction. The baseline set in FY 2011 was four willful, 10 repeat, and 96 serious violations in residential construction. During the evaluation period, the Division of OSH Compliance conducted 45 residential construction inspections, resulting in one willful, six repeat, and 50 serious violations. Once again, this represents a downward trend compared to the previous year; however, the State Plan’s inspection totals are also trending downward.

Year	Inspection	Willful	Repeat	Serious
FY 2011	64	4	10	96
FY 2012	108	4	11	105
FY 2013	57	0	4	73
FY 2014	45	1	6	50

Goal 1.2: Reduce amputations, hospitalizations, and illnesses in general industry and construction.

This goal aims to reduce amputations, hospitalizations, and illnesses in general industry and construction. The baseline established in FY 2011 included 151 hospitalizations, as well as 54 amputations. Fifty-nine inspections were conducted with 41 serious violations, 25 other-than-serious (OTS) violations, and four repeat serious violations, and a total of \$209,850 in penalties.

Year	Inspection	Amputations	Repeat	Serious	Total Penalty
FY 2011	59	54	4	41	\$209,850
FY 2012	44	54	1	52	\$324,050
FY 2013	41	52	2	39	\$269,075
FY 2014	46	58	4	29	\$220,950

In FY 2014, the Division of OSH Compliance received 58 reported amputations. Forty-six inspections were conducted with 29 serious violations and a total penalty of \$220,950. This represents an increase in the number of reported amputations, compared to FY 2013.

Goal 1.3: Total number of workers removed from hazards through a multi-pronged strategy.

This goal addresses the total number of workers removed from hazards through a multi-pronged strategy. It incorporates efforts for both the Division of OSH Compliance and the Division of Education and Training. The Division of OSH Compliance’s portion of this goal consists of response to imminent dangers, staff training, and conducting inspections for reports of hospitalization of fewer than three workers.

Year	Imminent Danger	Hospitalizations
FY 2012	217	59
FY 2013	205	56
FY 2014	201	65

Goal 1.4: Ensure that employers are adhering to settlement provisions and have abated imminent danger and fatality violations.

This goal represents an attempt by the State Plan to effectively ensure that employers adhere to settlement agreements. During FY 2014, KYOSH conducted eight follow-up inspections, compared with 31 and 34 follow-up inspections in FY 2013 and FY 2012, respectively.

Goal 1.5: Reduce the number of injuries caused by falls, struck-by, and crushed-by incidents in construction by 10% through a six-part strategy.

This goal aims to reduce the number of injuries caused by falls, struck-by, and crushed-by incidents in construction by 10% through a six-part strategy. It incorporates efforts for both the Division of OSH Compliance and the Division of Education and Training. The Division of OSH Compliance’s portion of this goal consists of response to imminent dangers, staff training, and conducting inspections for reports of hospitalization of fewer than three workers. The following Kentucky and national incident rates for 2011-2013 represent nonfatal occupational injuries and illnesses involving days away from work per 10,000 full-time workers in the construction industry.

	Falls	Struck-by	Crushed
Kentucky (2011)	10.6	26.0	*
Kentucky (2012)	14.5	16.1	*
Kentucky (2013)	14.6	18.6	4.9
National	18.0	32.4	6.9

*Too few incidents for rate calculation (two incidents reported)

Kentucky’s rates remain below the national average.

Goal 1.6: Initiate all fatality and catastrophe inspections by the Division of OSH Compliance within one working day of notification.

This goal addresses the initiation of all fatality and catastrophe inspections by the Division of OSH Compliance within one working day of notification. During FY 2014, the State Plan met this goal.

Goal 1.7: Initiate Division of OSH Compliance inspections of imminent danger reports within one working day of notification for 100% of occurrences.

This goal addresses response time by the Division of OSH Compliance in critical situations. During FY 2014, KYOSH met this goal. According to the SOAR, three cases appear as outliers;

however, appropriate explanations were provided regarding the delayed responses by the State Plan.

Goal 1.8: Reduce Kentucky's total case rate for injuries and illnesses.

This goal strives to reduce Kentucky's total case rate for injuries and illnesses. This performance goal combines efforts for both the Division of OSH Compliance and the Division of Education and Training. The baseline incident rate for all industries was 4.5. The total recordable incident rate in 2012 for all industries in Kentucky was 4.2, compared to 4.1 for FY 2013.

Goal 1.9: Reduce Kentucky's lost time case rate for injuries and illnesses.

This goal addresses the reduction of Kentucky's lost time case rate for injuries and illnesses. It combines efforts for both the Division of OSH Compliance and the Division of Education and Training. The 2011 baseline incident rate for lost time is 2.1. The goal of the KYOSH program is to focus on the highest hazard industries in an effort to lower the lost time incident rate. In FY 2013, the incident rate for lost time cases was 2.1, compared to 2.0 for FY 2012.

Goal 1.10: Reduce the total case rate in five of the 15 most hazardous industries in Kentucky.

This goal aims to reduce injury and illness incident rates in at least five of the 15 most hazardous industries in Kentucky and incorporates efforts from both the Division of OSH Compliance and the Division of Education and Training. In its effort to achieve this goal, the Division of Education and Training conducted the following: safety and health surveys in the selected top 10 Kentucky high-hazard NAICS and specific high-hazard industries and formal training sessions in one of the four Population Centers.

Fiscal Year	Safety and Health Surveys Conducted in the Top Ten High-Hazard NAICS	Training Sessions Conducted	Employers/Workers Trained
FY 2012	128	37	1,106
FY 2013	100	39	1,088
FY 2014	153	40	1,800

The Division of Education and Training targeted employers in specific NAICS classifications using 2011 data. The Division mailed 190 letters encouraging utilization of the education and training services under the STOP Program. The outreach mailings were also sent under the Division's Targeted Outreach Program (TOP). The STOP and TOP outreach efforts resulted in 174 employer requests for consultative services, compared with 101 and 134 in FY 2013 and FY 2012, respectively.

Goal 2.1: Ensure settlement agreements that have a monetary penalty reduction of more than \$10,000 also includes OSHA's 1989 Safety and Health Management Guidelines; or engage outside safety and health consultation.

This goal is focused on expanding the number of employers with safety and health management systems. In settlement cases with penalties reduced by more than \$10,000, the Division of OSH Compliance requires employers to adhere to the OSHA 1989 Safety and Health Guidelines or engage the services of an outside safety and health consultant. However, exceptions to this requirement are granted in the following cases: financial hardship, penalty miscalculations, or the reclassification of violations.

Fiscal Year	Settlement Agreements	Penalties Reduced by More Than \$10,000	1989 Safety and Health Guidelines	Not Applicable
FY 2012	84	14	7	7
FY 2013	99	11	0	11
FY 2014	102	24	5	19

Goal 2.2: Incorporate an evaluation of safety and health management systems in 100% of the full service comprehensive surveys.

During FY 2014, all full-service surveys included an evaluation of the safety and health management systems.

Goal 2.3: Utilize the Safety & Health Program Assessment Worksheet in all general industry full-service surveys in addition to a narrative safety and health program evaluation in all full-service surveys.

Once again, all general industry full-service surveys included a Safety and Health Program Assessment Worksheet, as well as a narrative safety and health program evaluation.

Goal 2.4: Effectively promote the new safety and health program management training course.

In FY 2014, the State Plan developed online e-learning safety and health program management training courses. The Division of Education and Training published the training modules to the Kentucky Labor Cabinet’s website in January 2014.

Goal 2.5: Ensure that the evaluations of worksites are conducted in a timely manner, including certification of VPP sites, the development of construction partnerships agreements, and the addition of new SHARP sites.

This goal was effectively accomplished during FY 2014. The State Plan continues to evaluate worksites for its VPP in a timely manner.

Goal 2.6: Implement a targeted outreach plan for all new KYOSH standards.

The Division of Education and Training continues to offer free outreach training addressing KYOSH standards at Population Centers for employers and workers across the commonwealth. In addition, KYOSH utilizes their e-learning website to conduct outreach training.

Goal 3.1: Maintain a reliable data repository to support the KYOSH program goals and strategies.

The KYOSH program employs two individuals dedicated to IMIS and ensuring the maintenance of a reliable data repository.

Goal 3.2: Ensure new supervisory staff completes formal leadership training or certification programs.

This goal aims for new supervisory staff to complete formal leadership training or complete certification. In FY 2014, the Division of OSH Compliance and the Division of Education and Training did not hire new supervisory staff.

Goal 3.3: Encourage and aid in the staff's professional certification.

This goal was effectively accomplished during FY 2014.

Goal 3.4: Encourage and aid advanced degrees for occupational safety and health program workers.

During this period, two staff members obtained Master of Science degrees in Safety, Security, and Emergency Management. Additionally, nine compliance officers also obtained Master of Science degrees. This goal was effectively accomplished during FY 2014.

Goal 3.5: Implement adult learning theory principles into formal training provided to employers and workers.

This goal was accomplished in FY 2014 with four cost-free interactive training products added to the State Plan's training website.

Goal 3.6: Include photographs of actionable hazards in all consultation surveys.

During this period, photographs of actionable hazards were included in all appropriate consultation surveys.

C. Highlights from the State Activity Mandated Measures (SAMM)

In FY 2014, the 998 inspections conducted by KYOSH resulted in an average of 1.75 violations (serious/willful/repeat) per inspection. KYOSH routinely has a higher average lapse time compared to national data. According to the SAMM Report, in FY 2014, the average lapse time (in days) from opening conference to citation issuance is identified below:

Average Lapse Time	KYOSH	OSHA
Safety	69.3	43.4
Health	78.4	57.1

In FY 2014, the average current penalty per serious, repeat, and willful violations for private sector inspections was as follows:

Classification	KYOSH	OSHA
Willful	\$46,667	\$39,385
Repeat	\$15,108	\$6,597
Serious	\$3,166	\$1,969

In FY 2014, KYOSH issued six willful violations, 39 repeat violations, and no failure-to-abate violations. All willful violations were reviewed by the Office of General Counsel prior to issuance. According to the State Plan IMIS data, KYOSH's percent serious/willful/repeat/unclassified was 73.8% in FY 2014, compared to OSHA's percent serious/willful/repeat/unclassified at 77%.

Percent of Violations Cited Serious/Other-Than-Serious (OTS) or Non-Serious

	KYOSH	OSHA
Serious	73.7%	72.1%
OTS	23.1%	22.4%

According to the SAMM Report, KYOSH responds timely to complaints. Complaint investigations were initiated within an average of 1.35 days, and complaint inspections were initiated within an average of 4.64 days.

For a complete list of SAMM results, reference Appendix D.

III. Assessment of State Plan Corrective Actions

Findings and Recommendations:

Finding 13-01: A significant number of the 603 open cases in IMIS that are not in contest or currently active, including 149 cases with open abatements, can be closed.

Recommendation: KYOSH should implement a process to determine which cases in the IMIS have completed litigation and/or have the abatement and penalty satisfied.

Status- Awaiting Verification: Kentucky has spent considerable time analyzing the data and addressing this issue. The overwhelming majority of the cases open in IMIS are open for legitimate reasons, such as cases being open due to litigation, filing of liens, or in debt collection. All of those cases were open in accordance with KYOSH program policy. Since OSHA's onsite review, Kentucky implemented a new case closure policy. Pursuant to KRS 45.239(4) and 45.241, the KYOSH program entered into an agreement with the Kentucky Revenue Cabinet to collect delinquent debts. Employers who have outstanding OSH debts are reported to the

Revenue Cabinet for collection and further action. The new policy will significantly reduce the number of future cases that remain open for an extended period. Currently, State Plan data shows that there are 664 open cases (599 safety and 65 health).

Finding 13-02: Complainants are not provided the findings regarding each complaint item, and they are not afforded a way of disputing or appealing the findings of a complaint inspection.

Recommendation: KYOSH should fully implement the augmented procedure addressed in former Commissioner Dixon's response following the FY 2011 FAME, which states "Kentucky indicated in the 2010 follow-up report that it augmented its procedure by addressing each complaint item individually and advising the complainant's appeal rights in the letter to complainants". Appropriate personnel should be trained in the augmented procedure, and supervisors should review case files more carefully to ensure that this procedure is fully implemented and this information is included all case files.

Status- Awaiting Verification: Kentucky is confident that all complainants were provided the findings regarding each complaint item and afforded a way of disputing or appealing the findings of a complaint inspection. Kentucky notes that OSHA's recommendation is based on a very small sample size, five files. Kentucky does not believe the sample size represents a program-wide problem. Kentucky responded it implemented the augmented procedure addressed in former Commissioner Dixon's response following the FY 2011 FAME, and appropriate personnel were trained in the augmented procedure; however, this is not the case. The FY 2013 cases file reviews supported that the augmented procedures addressed in Commissioner Dixon's response were never implemented. The letters contained in the case files were the same letters being used prior to the FY 2011 FAME, not the revised letters provided with Commissioner Dixon's response. Kentucky noted that OSHA's finding and recommendation does not assert the KYOSH program is not providing the information to the complainants. OSHA's concern is the case file documentation of the information provided to the complainants. Kentucky notes that on Page 13 of the FAME, OSHA states "Managers stated that they send a copy of the narrative with the letter as an attachment..." Kentucky will increase attention to memorializing the findings of each complaint item in its database.

Finding 13-03: In three instances, KYOSH assigned personnel to conduct fatality investigations without the proper training.

Recommendation: KYOSH should ensure that all compliance officers assigned to conduct accident and fatality investigations have the appropriate training.

Status- Completed: Kentucky is in the best position to determine the capabilities of its staff and was supremely confident the officers were capable, as well as qualified, to conduct the investigations. Kentucky noted that OSHA did not indicate the investigations, documentation, or findings were lacking in any way. The case files clearly demonstrate that to be true. Kentucky also notes that two of the instances were "no inspections" for lack of an employer/worker relationship. At the time of the assignments, the compliance officers had not completed two OSHA Training Institute (OTI) courses mentioned in the FAME narrative. Kentucky reported the officers have completed the OTI coursework.

Finding 13-04: More than half of the fatality files reviewed did not provide evidence that one or more of the required calls were made and/or letters sent to the NOK.

Recommendation: Implement a process to ensure full implementation of CPL 02-00-153, Communicating OSHA Fatality Inspection Procedures to a Victim’s Family to ensure that all communications with the NOK are completed.

Status- Awaiting Verification: Kentucky is confident that all next-of-kin (NOK) communications are completed. Kentucky noted that OSHA’s finding and recommendation does not assert the KYOSH program is not providing the NOK with the appropriate notification. OSHA’s concern is the case file documentation of the communication. Kentucky will emphasize improved documentation of the communication with NOK to all staff. Kentucky will institute a process to include a record of all NOK communications in its database.

Finding 13-05: KYOSH conducted a total of 15 programmed planned health inspections during this evaluation period.

Recommendation: KYOSH should develop and implement a strategy to ensure a more representative number of programmed planned health inspections are conducted to adequately address the scope and seriousness of the hazards found in high-hazard health industries.

Status- Awaiting Verification: Health inspections were, and continue to be, assigned and conducted in accordance with the inspection priority order established in Kentucky’s Field Operations Manual. Kentucky has a strategy to ensure programmed planned health inspections are conducted to adequately address the scope and seriousness of hazards found in high-hazard health industries. Health hazards in high-hazard industries were identified, cited, and abated during all types of health inspections conducted in FY 2013. On August 8, 2014, a change in policy was implemented, which increased the number of programmed planned health inspections. Progress in this area will continue to be measured due to staff turnover. Nevertheless, Kentucky noted progress in this area and continues to work towards additional improvement.

Finding 13-06: KYOSH has a significantly high average citation issuance lapse times for safety and health.

Recommendation: KYOSH should develop and implement a process to reduce the average lapse time for non-in-compliance safety and health inspections to the national average.

Status- Open: Kentucky did not accept or reject this finding and recommendation. Kentucky responded it is aware of significant differences in several of the SAMMs utilized by OSHA to calculate performance data, including the SAMM utilized to calculate lapse times. Kentucky awaits modifications to its database to compute and reflect accurate data for this SAMM, as well as others. Kentucky reserves response to this finding and recommendation until the modifications are implemented and the data is verified. In FY 2014, the lapse times have improved slightly, 69.3 versus 73 in FY 2013 (safety) and 78.4 versus 89.5 in FY 2013 (health); however, they remain significantly higher than the federal program.

Finding 13-07: Several of KYOSH’s SEPs do not target specific hazards or industries to prevent injuries and/or illnesses.

Recommendation: KYOSH should implement a process for the development of SEPs for the proactive targeting of hazards, industries, etc. to prevent injuries and illnesses.

Status- Completed: Kentucky took strong exception to OSHA’s finding and recommendation responding OSHA’s assertion that “several of KYOSH’s SEPs do not target specific hazards or industries to prevent injuries and/or illnesses” and its recommendation that Kentucky “should

implement a process for the development of SEPs for the proactive targeting of hazards, industries, etc. to prevent injuries and illnesses” is preposterous. However, Kentucky considered OSHA’s suggestion. It was determined that in addition to the TOPS and STOPS targeting programs, Kentucky routinely adopts many of the federal NEPs that are used to target specific hazards in specific industries. Kentucky has programs for the proactive targeting of hazards and industries to prevent injuries and illnesses; however, Kentucky is encouraged to evaluate injury and illness trends to identify hazards and industries to target and develop the necessary programs to do so.

Finding 13-08: Compliance officers are not provided progressive training opportunities as outlined by the KYOSH training guidelines.

Recommendation: KYOSH should implement a process to ensure compliance officer training is compliant with TED 01-00-018, “Training Program for OSHA Compliance Personnel,” as adopted by KYOSH.

Status- Awaiting Verification: Kentucky is implementing a process to ensure compliance officer training is compliant with TED 01-00-018. Kentucky notes that TED 01-00-019, Mandatory Training Program for OSHA Compliance Personnel, now supersedes TED 01-00-018. Kentucky is evaluating TED 01-00-019. Kentucky clearly supports progressive training opportunities for compliance officers and is currently implementing a process to ensure compliance officer training is compliant with TED 01-00-018.

Finding 13-09: KYOSH’s Division of OSH Compliance does not have an internal self-evaluation program as required by the State Plan Policies and Procedures Manual.

Recommendation: KYOSH should implement a process to ensure that an internal self-evaluation program possessing integrity and independence is developed and implemented. Kentucky should ensure that periodic evaluations of all areas of the program are evaluated and documentation of the evaluations is made available to OSHA.

Status- Open: The Division of OSH Compliance has always approached and conducted internal evaluations on several fronts, such as internal fiscal checks and balances, worker on-the-job evaluations, review of worker work product, and a host of other internal policies and procedures. Kentucky is working toward the consolidation of its internal self-evaluation practices into a single written document. Kentucky is near completion of the document.

Appendix A – New and Continued Findings and Recommendations

FY 2014 Kentucky Follow-Up FAME Report

FY 2014-#	Finding	Recommendation	FY 20XX-# or FY 20XX-OB-#
FY 2014-01	Kentucky’s state specific regulation 803 KAR 2:412, which addresses residential construction fall protection, differs significantly from OSHA’s policies and standards.	KYOSH should take appropriate action to revise 803 KAR 2:412 - residential construction fall protection to ensure that it is in line with the federal regulation.	
FY 2014-02	A significant number of the 603 open cases in IMIS, that are not in contest or currently active, including 149 cases with open abatements can be closed.	KYOSH should implement a process to determine which cases in the IMIS have completed litigation and/or have the abatement and penalty satisfied. <i>“Corrective action complete, awaiting verification”</i>	FY 2013-01 FY 2012-01 FY 2011-02 FY 2009-13
FY 2014-03	Complainants are not provided the findings regarding each complaint item and they are not afforded a way of disputing or appealing the findings of a complaint inspection.	KYOSH should fully implement the augmented procedure addressed in former Commissioner Dixon’s response following the FY 2011 FAME which states “Kentucky indicated in the 2010 follow-up report that it augmented its procedure by addressing each complaint item individually and advising the complainant’s appeal rights in the letter to complainants”. Appropriate personnel should be trained in the augmented procedure and supervisors should review case files more carefully to ensure this procedure is fully implemented and this information is included all case files. <i>“Corrective action complete, awaiting verification”</i>	FY2013-02 FY 2011-04 FY 2009-05
FY 2014-04	More than half of the fatality files reviewed did not provide evidence that one or more of the required calls were made and/or letters sent to the next-of-kin.	Implement a process to ensure full implementation of CPL 02-00-153 - Communicating OSHA Fatality Inspection Procedures to a Victim’s Family to ensure that all communications with the NOK are completed. <i>“Corrective action complete, awaiting verification”</i>	FY 2013-04 FY 2011-05 FY 2009-07
FY 2014-05	KYOSH conducted a total of 15 programmed planned health inspections during this evaluation period.	KYOSH should develop and implement a strategy to ensure a more representative number of programmed planned health inspections are conducted to adequately address the scope and seriousness of the hazards found in high hazard health industries. <i>“Corrective action complete, awaiting verification”</i>	FY 2013-05 FY 2011-06
FY 2014-06	KYOSH has significantly high average citation issuance lapse times for safety and health.	KYOSH should develop and implement a process to reduce the average lapse time for non-incompliance	FY 2013-06 FY 2011-07

Appendix A – New and Continued Findings and Recommendations

FY 2014 Kentucky Follow-Up FAME Report

		safety and health inspections to the national average.	FY 2009-11
FY 2014-07	Compliance officers are not provided progressive training opportunities as outlined by the KYOSH training guidelines.	KYOSH should implement a process to ensure compliance officer training is compliant with TED 01-00-018 “Training Program for OSHA Compliance Personnel,” as adopted by KYOSH. “Corrective action complete, awaiting verification”	FY 2013-08
FY 2014-08	KYOSH’s Division of OSH Compliance does not have an internal self-evaluation program as required by the State Plan-Policies and Procedures Manual.	KYOSH should implement a process to ensure that an internal self-evaluation program possessing integrity and independence is developed and implemented. Kentucky should ensure that periodic evaluations of all areas of the program are evaluated and documentation of the evaluations is made available to federal OSHA.	FY 2013-09 FY 2010-08 FY 2009-20

Appendix B – Observations Subject to New and Continued Monitoring

FY 2014 Kentucky Follow-Up FAME Report

Observation # FY 2014-OB-#	Observation# FY 20XX-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
FY 2014-OB-01		In FY 2014, KYOSH conducted twenty-three (23) fewer follow-up inspections, compared to FY 2013, which is 74% reduction in follow-up inspections.	The OSHA Area Office will continue to address this issue with the State Plan during quarterly monitoring meeting. Additionally, the area office will also continue to encourage KYOSH to increase its performance in this area.	New
FY 2014-OB-02	FY13-OB-1	During the past legislative sessions, bills were It proposed to reduce the special fund assessment rate from 9% to no less than 6.28% (thus affecting the funding of many programs in the Labor Cabinet including the OSH Program). This would basically defund the KYOSH program.	The OSHA Area Office will continue to address this issue with the State Plan during quarterly monitoring meeting and support the State Plan’s effort to effective educate its legislative body regarding this matter.	Continued
FY 2014-OB-03	FY13-OB-3	There was no evidence in three of the five of the non-formal complaint reviewed that a letter was sent notifying complainants of the results of the investigations.	The OSHA Area Office will continue to encourage the KYOSH Program to effectively revise its letters to complainants, addresses the results of the compliance investigation.	Continued
FY 2014-OB-04	FY13-OB-4	In five of the complaint inspection files reviewed, there was no documentation supporting that the safety and health programs were reviewed and there was nothing to support providing or not providing good faith.	KYOSH Program will be encouraged to ensure compliance case files with additional documentation to support good faith reductions. The OSHA Area Office will also continue to address this issue during quarterly monitoring meeting.	Continued
FY 2014-OB-05	FY13-OB-5	Two of the five non-formal investigations alleging health related exposures did not have sampling provided by the employer to support their response that employees were not overexposed.	KYOSH Program will be encouraged to ensure compliance case files with additional documentation to support alleged health violations. The OSHA Area Office will also continue to address this issue during quarterly monitoring meeting.	Continued
FY 2014-OB-06	FY13-OB-6	For inspections involving chemical and/or health exposures, sampling results were not provided to the appropriate employees, employer representatives, and employee representatives when sampling was performed.	KYOSH Program will be encouraged to ensure that sampling results are provided to the appropriate workers, employer representatives, and worker representatives when sampling is performed. The OSHA Area Office will also continue to address this issue during quarterly monitoring meeting.	Continued
FY 2014-OB-07	FY13-OB-7	KYOSH does not effectively utilize the OSHA Express abatement report to track abatement.	The OSHA Area Office will continue encourage KYOSH officials to effectively utilize the OSHA Express abatement report to track abatement.	Continued
FY 2014-OB-08	FY13-OB-8	KYOSH’s guidelines regarding telephone logs are not	The OSHA Area Office will continue encourage	Continued

Appendix B – Observations Subject to New and Continued Monitoring

FY 2014 Kentucky Follow-Up FAME Report

		followed uniformly by the investigators.	KYOSH’s investigators to uniformly follow the guidelines regarding the telephone logs. The OSHA Area Office will also continue to address this issue during quarterly monitoring meeting.	
FY 2014-OB-09	FY13-OB-9	More consideration should be given to the analysis portion of the FIR, wherein the prima facie elements of a whistleblower complaint are considered (along with any proffered defenses).	The OSHA Area Office will continue encourage KYOSH’s investigators to give more consideration to the analysis portion of the FIR, wherein the prima facie elements of a whistleblower complaint are considered. The OSHA Area Office will also continue to address this issue during quarterly monitoring meeting.	Continued

Appendix C - Status of FY 2013 Findings and Recommendations
 FY 2014 Kentucky Follow-Up FAME Report

FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
Finding 13-01 (formerly 12-01, 11-02, and 9-13)	A significant number of the 603 open cases in IMIS, that are not in contest or currently active, including 149 cases with open abatements can be closed.	KYOSH should implement a process to determine which cases in the IMIS have completed litigation and/or have the abatement and penalty satisfied.	<p>Kentucky has spent considerable time analyzing the data and addressing this issue. The overwhelming majority of the cases open in IMIS are open for legitimate reasons, such as cases open due to litigation, filing of liens, or in debt collection. All of those cases were open in accord with Kentucky OSH Program policy.</p> <p>Since OSHA’s on-site review, Kentucky implemented a new case closure policy. Pursuant to KRS 45.239(4) and 45.241, the Kentucky OSH Program entered into an agreement with the Kentucky Revenue Cabinet to collect delinquent debts. Employers who have outstanding OSH debts are reported to the Revenue Cabinet for collection and further action. The new policy will significantly reduce the number of future cases that remain open for an extended period.</p>	9/17/2014	Awaiting Verification - Open abatement cases have been identified, reviewed, and a concerted effort made to close out every case that is ripe for closure.
Finding 13-02 (formerly 11-04 and 9-05)	Complainants are not provided the findings regarding each complaint item and they are not afforded a way of disputing or appealing the findings of a complaint inspection.	KYOSH should fully implement the augmented procedure addressed in former Commissioner Dixon’s response following the FY 2011 FAME which states “Kentucky indicated in the 2010 follow-up report that it augmented its procedure by addressing each complaint item	Kentucky is confident that all complainants were provided the findings regarding each complaint item and afforded a way of disputing or appealing the findings of a complaint inspection. Kentucky notes that OSHA’s recommendation in based on a very small sample size, five (5) files. Kentucky does not believe the sample size represents a program-wide problem. Kentucky implemented the augmented procedure addressed in former Commissioner Dixon’s response following the FY 2011 FAME and appropriate personnel were trained in the	9/17/2014	<p>Awaiting Verification - Kentucky notes that on page thirteen (13) of the FAME, OSHA states “Managers stated that they send a copy of the narrative with the letter as an attachment....”</p> <p>Kentucky will increase attention to memorializing the findings of each complaint item in its database.</p>

Appendix C - Status of FY 2013 Findings and Recommendations
 FY 2014 Kentucky Follow-Up FAME Report

		individually and advising the complainant’s appeal rights in the letter to complainants”. Appropriate personnel should be trained in the augmented procedure and supervisors should review case files more carefully to ensure this procedure is fully implemented and this information is included all case files.	augmented procedure. Kentucky notes that OSHA’s finding and recommendation does not assert the Kentucky OSH Program is not providing the information to the complainants. OSHA’s concern is the case file documentation of the information provided to the complainants.		
Finding 13-03	In three instances, KYOSH assigned personnel to conduct fatality investigations without the proper training.	KYOSH should ensure that all compliance officers assigned to conduct accident and fatality investigations have the appropriate training.	Kentucky is in the best position to determine the capabilities of its staff and was supremely confident the officers were capable, as well as qualified, to conduct the investigations. Kentucky notes that OSHA did not indicate the investigations, documentation, or findings were lacking in any way. The case files clearly demonstrate that to be true. Kentucky also notes that two (2) of the instances were “no inspections” for lack of an employer/employee relationship.	9/17/2014	Completed – Kentucky reports the officers have completed the OTI coursework.
Finding 13-04 (formerly 11-05 and 9-07)	More than half of the fatality files reviewed did not provide evidence that one or more of the required calls were made and/or letters sent to the next-of-kin.	Implement a process to ensure full implementation of CPL 02-00-153 - Communicating OSHA Fatality Inspection Procedures to a Victim’s Family to ensure that all communications with the NOK are completed.	Kentucky is confident that all next-of-kin communications are completed. Kentucky notes that OSHA’s finding and recommendation does not assert the Kentucky OSH Program is not providing the next-of-kin with the appropriate notification. OSHA’s concern is the case file documentation of the communication.	9/17/2014	Awaiting Verification - Kentucky will emphasize improved documentation of the communication with next-of-kin to all staff. Kentucky will institute a process to include a record of all next-of-kin communications in its database.
Finding 13-05	KYOSH conducted a	KYOSH should develop	Health inspections were, and continue to be,	9/17/2014	Awaiting Verification -

Appendix C - Status of FY 2013 Findings and Recommendations
 FY 2014 Kentucky Follow-Up FAME Report

(formerly 11-06)	total of 15 programmed planned health inspections during this evaluation period.	and implement a strategy to ensure a more representative number of programmed planned health inspections are conducted to adequately address the scope and seriousness of the hazards found in high hazard health industries.	assigned and conducted in accordance with the inspection priority order established in Kentucky's Field Operations Manual. Kentucky has a strategy to ensure programmed planned health inspections are conducted to adequately address the scope and seriousness of hazards found in high hazard health industries. Health hazards in high hazard industries were identified, cited, and abated during all types of health inspections conducted in FY 2013.		Kentucky notes progress in this area and continues to work towards additional improvement.
Finding 13-06: (formerly 11-07 and 9-11)	KYOSH has significantly high average citation issuance lapse times for safety and health.	KYOSH should develop and implement a process to reduce the average lapse time for non-compliance safety and health inspections to the national average.	Kentucky does not accept, or reject, this finding and recommendation. Kentucky is aware of significant differences in several of the State Activity Mandated Measures (SAMM) utilized by OSHA to calculate performance data. One of the erroneous measures is the SAMM utilized to calculate lapse times.	9/17/2014	Open – Kentucky awaits modifications to its database to compute and reflect accurate data for this SAMM, as well as others.
Finding 13-07	Several of KYOSH's Special Emphasis Programs (SEP) do not target specific hazards or industries to prevent injuries and/or illnesses.	KYOSH should implement a process for the development SEPs for the proactive targeting of hazards, industries, etc. to prevent injuries and illnesses.	Kentucky takes strong exception to OSHA's finding and recommendation. OSHA's assertion that "Several of KYOSH's Special Emphasis Programs (SEP) do not target specific hazards or industries to prevent injuries and/or illnesses" and its recommendation that Kentucky "should implement a process for the development SEPs for the proactive targeting of hazards, industries, etc. to prevent injuries and illnesses" is preposterous.	9/17/2014	Completed – KYOSH has adopted a majority of the National Emphasis Programs and use them for the purpose of targeting.

Appendix C - Status of FY 2013 Findings and Recommendations
 FY 2014 Kentucky Follow-Up FAME Report

Finding 13-08	Compliance officers are not provided progressive training opportunities as outlined by the KYOSH training guidelines.	KYOSH should implement a process to ensure compliance officer training is compliant with TED 01-00-018 "Training Program for OSHA Compliance Personnel," as adopted by KYOSH.	Kentucky is implementing a process to ensure compliance officer training is compliant with TED 01-00-018. Kentucky notes that TED 01-00-019, Mandatory Training Program for OSHA Compliance Personnel, now supersedes TED 01-00-018. Kentucky is evaluating TED 01-00-019.	9/17/2014	Awaiting Verification - Kentucky clearly supports progressive training opportunities for compliance officers and is currently implementing a process to ensure compliance officer training is compliant with TED 01-00-018.
Finding 13-09 (formerly 10-8 and 9-20)	KYOSH's Division of OSH Compliance does not have an internal self-evaluation program as required by the State Plan-Policies and Procedures Manual.	KYOSH should implement a process to ensure that an internal self-evaluation program possessing integrity and independence is developed and implemented. Kentucky should ensure that periodic evaluations of all areas of the program are evaluated and documentation of the evaluations is made available to federal OSHA	The Division of OSH Compliance has always approached and conducted internal evaluations on several fronts, such as internal fiscal checks and balances, employee on the job evaluations, review of employee work product, and a host of other internal policies and procedures. Kentucky's internal evaluation process had been in place for decades.	9/17/2014	Open – The Division of Compliance has worked toward consolidation of its internal self-evaluation practices into a single written document. Kentucky is near completion of the document.

Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report

FY 2014 Kentucky Follow-Up FAME Report

OSHA is in the process of moving operations from a legacy data system (NCR) to a modern data system (OIS). During FY 2014, federal OSHA case files were captured on OIS, while most State Plan case files continued to be processed through NCR. Kentucky opened 990 enforcement inspections in FY 2014. Of those, 990 inspections were captured in NCR, while 0 were captured in OIS. The SAMM Report, which is native to IMIS (a system that generates reports from the NCR), is not able to access data in OIS. Additionally, certain algorithms within the two systems are not identical. These challenges impact OSHA's ability to combine the data.

For FY14 we will use a format very similar to the one used for FY13. Below is an explanation of which data OSHA was able to use when calculating each metric.

- a. Measures 1 & 2 will use State Plan data for FY14 as captured in NCR and compared to the State Plan's negotiated number. Any State Plan data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR.
 - b. Measures 20a-b, 23, and 24 will use State Plan data for FY14 as captured in NCR and compared to the historical FY2011 national average (FY09-11). Any State Plan data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR.
 - c. Measures 5, 9, 11, 17, 19, 21, and 25 will use State Plan data for FY14 as tabulated manually to include both OIS and NCR data and compared to the fixed/negotiated/national numbers associated with them.
 - d. Measures 13, 14 and 16 will be extracted from NCR (OIS conversion should not impact). National data will be pulled from WebIMIS for FY12-14.
 - e. Measures 18a-e will use State Plan data for FY14 as captured in NCR. Any data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR. Much like FY13, no national data will be available for comparison.
 - f. Measure 22 will be excluded from the report (other than as a placeholder to demonstrate that it is one of the agreed upon metrics, but not one we can currently generate).
 - g. Measure 4 will use State Plan data for FY 14 as captured in NCR.
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Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report

FY 2014 Kentucky Follow-Up FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Kentucky			FY 2014	
SAMM Number	SAMM Name	State Plan Data	Reference/Standard	Notes
1	Average number of work days to initiate complaint inspections	9.63	30 days Serious hazards/120 days other than serious hazards	State Plan data taken directly from SAMM report generated through IMIS. The reference/standard is a negotiated number for each State Plan.
2	Average number of work days to initiate complaint investigations	3.37	TBD	State Plan data taken directly from SAMM report generated through IMIS. The reference/standard is a negotiated number for each State Plan.
4	Percent of complaints and referrals responded to within 1 work day (imminent danger)	98.5%	100%	State Plan data taken directly from SAMM report generated through IMIS.
5	Number of denials where entry not obtained	0	0	State Plan data taken directly from SAMM report generated through IMIS and Open Inspection OIS report.
9a	Average number of violations per inspection with violations by violation type	1.8	SWR: 1.99	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS; national data was manually calculated from data pulled from both IMIS and OIS for Fiscal Years (FY) 2012-2014.
9b	Average number of violations per inspection with violations by violation type	0.71	Other: 1.22	

Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report

FY 2014 Kentucky Follow-Up FAME Report

11	Percent of total inspections in the public sector	3.84%	5.01%	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS. The reference/standard is derived from the FY 14 grant application.
13	Percent of 11c Investigations completed within 90 calendar days	45%	100%	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.
14	Percent of 11c complaints that are meritorious	10	24.8% meritorious	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.
16	Average number of calendar days to complete an 11c investigation	88.65	90 Days	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.
17	Planned vs. actual inspections - safety/health	839/151	890/200	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS; the reference standard number is taken from the FY 2014 grant application. The reference/standard is a negotiated number for each State Plan.
18a	Average current serious penalty - 1 -25 Employees	2325.41		State Plan data taken directly from SAMM report generated through IMIS.
18b	Average current serious penalty - 26-100 Employees	2690.92		
18c	Average current serious penalty - 101-250 Employees	4218.08		
18d	Average current serious penalty - 251+ Employees	4290.67		

Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report

FY 2014 Kentucky Follow-Up FAME Report

18e	Average current serious penalty - Total 1 - 250+ Employees	2842.96		
19	Percent of enforcement presence	1.38%	National Average 1.51%	Data is pulled and manually calculated based on FY 2014 data currently available in IMIS and County Business Pattern data pulled from the US Census Bureau.
20a	20a) Percent In Compliance – Safety	50.52	Safety - 29.1	State Plan data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2014 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
20b	20b) Percent In Compliance – Health	46.77	Health - 34.1	
21	Percent of fatalities responded to in 1 work day	86%	100%	State Plan data is manually pulled directly from IMIS for FY 2013.
22	Open, Non-Contested Cases with Abatement Incomplete > 60 Days	n/a		Data not available.
23a	Average Lapse Time - Safety	69.26	43.4	State Plan data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
23b	Average Lapse Time - Health	78.37	57.05	

Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report

FY 2014 Kentucky Follow-Up FAME Report

24	Percent penalty retained	68.6	66	State Plan data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
25	Percent of initial inspections with employee walk around representation or employee interview	100	100%	State Plan data taken from SAMM report generated through IMIS and the Inspection where Workers Involved report generated in OIS.